

ENACTED

The Commonwealth of Massachusetts

In the Year Two Thousand and Three

Chapter 46

AN ACT PROVIDING RELIEF AND FLEXIBILITY TO MUNICIPAL OFFICIALS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide fiscal relief to municipalities in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 172A of chapter 6 of the General Laws is hereby amended by adding the following paragraph:-

The board shall process any request within 30 days of said request. The board shall charge an additional \$10 for any expedited request for criminal record information which shall be processed within 14 days of said request. No fee shall be charged if the board does not process any request within the 30 day or 14 day time period.

SECTION 2. Chapter 7 of the General Laws is hereby amended by striking out section 1, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 1. As used in this chapter the following words shall unless a

contrary intention clearly appears, have the following meanings:-

"Commissioner", the commissioner of administration, except that in sections 38A to 43H, inclusive, the word "commissioner" shall mean the commissioner of capital asset management and maintenance.

"Eligibility", written criteria established before a request for applications that is used to determine if an application for an award of grant program resources is acceptable.

"Finance committee", the committee of the executive council appointed to consider matters of finance.

"Grant program", financial or technical assistance provided by a state agency or state authority, as defined in section 1 of chapter 29, available to a city, town or other public or private entity otherwise eligible.

"Grant program fiscal statement", shall include: (1) a description of the substance of the application; (2) the average expected grant amount; (3) a listing of award recipients, including the award amount, if any, the fiscal year of the award and the date of award; (4) the estimated proportion of monies, in-kind match or other monies to be supplied by the award recipient and any other source from which such match will be required; (5) a description of the allocation formula and matching requirements, including whether the grant is distributed on the basis of a specified formula or at the grantor's discretion; (6) a description of any constraints placed on the use of the grant; and (7) contact information, including the telephone number, postal address and internet email address to facilitate the application process.

"Grant program reference", a description in electronic format that is retrievable and printable that shall include: (1) the grant program application; (2) the grant program eligibility criteria; (3) the application due date; and (4) the grant program fiscal statement.

SECTION 3. Said chapter 7 is hereby further amended by inserting after section 4P the following section:-

Section 4Q. A state agency or state authority which administers a grant program shall publish on the commonwealth's official internet website, in a

format that is retrievable and printable all forms necessary for an application, including a grant program reference.

SECTION 4. The first paragraph of section 4I of chapter 7 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "labor", in line 5, the following words:- and 2 of whom shall have prior experience serving as a town administrator, city manager, selectman or city councilor.

SECTION 5. Said chapter 7 is hereby further amended by inserting after section 22B the following section:-

Section 22B 1/2. For the purposes of sections 22C to 22F, inclusive, unless a contrary intention clearly appears, the following words shall have the following meanings:

"Comparable low bid or offer", a responsive and responsible bid or offer which is not more than 10 per cent greater than the lowest bid or offer submitted for goods or services.

"Essential", necessary in order that a state agency or state authority may perform its mission, there being no substitute, to avoid irreparable, harm to the agency or authority programs.

"Person", an individual, partnership, firm, association, corporation or other entity or a subsidiary thereof.

"Secretary", the secretary of administration and finance.

"State agency", awarding authorities of the commonwealth including, but not limited to, executive offices, agencies, departments, commissions and public institutions of higher education.

"State authority" shall include, but not be limited to: the Bay State Skills Corporation, Centers of Excellence, Community Economic Development Assistance Corporation, Community Development Finance Corporation, government land bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational

Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Racing Commission, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resource Authority, Nantucket Land Bank, New England Loan Marketing Corporation, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, Victim and Witness Assistance Board, and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

SECTION 6. Section 47 of chapter 10 of the General Laws is hereby repealed.

SECTION 7. Section 12 of chapter 11 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting, after the word "examine", in line 36, the following words:- ; provided, however, that in a town following a majority vote by the board of selectmen or school committee that is ratified by a special or annual town meeting, or in a regional school district following a two-thirds vote of the regional school district committee members, or in a city following a majority vote of the city council and approval by the mayor, or in a county following a majority vote of the county commissioners, the department of the state auditor may make an audit of the accounts, programs, activities and other public functions of said town, district, regional school district, city or county to the extent determined necessary by the state auditor; provided, further, that the expenses incurred for any such audit shall be borne by the city, town or regional school district and the state auditor may charge for the cost of said audit; provided, further,

that all funds received for any such audits of said city, town, district, regional school district or county shall be deposited with the state treasurer in a separate account and expended solely for audits of any city, town, district, regional school district or county. On or before April 1 of each year, the state auditor shall submit a report to the house and senate committees on ways and means which shall include, but not be limited to, (i) the number of audits performed under this section; (ii) a summary of findings under said audits; and (iii) the cost of each audit.

SECTION 8. Section 2 of chapter 21E of the General Laws, as so appearing, is hereby amended by inserting after the word "plant", in line 76, the following words:- or the site of a former Massachusetts Bay Transportation Authority right-of-way in which the municipality has acquired an interest for purposes of the installation, operation, maintenance and use of a rail-trail as defined in the definition of Owner or Operator.

SECTION 8A. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "vessel", in line 211, the following words:- except in the case of a discontinued Massachusetts Bay Transportation Authority right-of-way of which a city or town has ownership or possession for rail-trail purposes under clause (1) of subparagraph (d), any person who owned or operated the site or vessel immediately before the Massachusetts Bay Transportation Authority obtaining ownership or possession of the site or vessel.

SECTION 8B. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "respectively", in lines 415 and 416, the following words:- or has acquired an interest in the site by fee, easement, lease, license or otherwise, from the Massachusetts Bay Transportation Authority for purposes of the installation, operation, maintenance and use of a rail-trail, defined as a property converted from former use as a railroad right-of-way to a revitalized use as a publicly owned,

improved and maintained corridor for bicycle, pedestrian, and other non-motorized public transportation, recreation and associated purposes.

SECTION 8C. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by striking out, in lines 431 and 432, the words "or otherwise preventing access to the site or vessel and" and inserting in place thereof the following words:- , paving, installing geo-textile membrane, or otherwise suitably preventing access to the site or vessel or to the oil or hazardous materials present at the site.

SECTION 8D. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "vessel", in line 445, the following words:- or, in the case of a site acquired from the Massachusetts Bay Transportation Authority for purposes of the installation, operation, maintenance and use of a rail-trail, the city or town acts diligently to develop the rail-trail for its intended purpose.

SECTION 8E. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "paragraph (c).", in line 450, the following sentence:- Whether the city or town is acting or has acted diligently to develop the rail-trail for its intended purpose shall be determined by considering all pertinent circumstances of municipal financing, bidding, and construction of the rail-trail project, and of the availability of and rules governing the applicable state or federal funding program therefor, in light of the discovery of the release or threat of release of oil or hazardous materials at issue.

SECTION 9. Section 19 of chapter 25 of the General Laws, as so appearing, is hereby amended by inserting after the fifth sentence the following sentence:- Municipal demand side management programs shall include meter reading technologies for the purpose of energy efficiency, conservation and other energy management applications.

SECTION 10. Section 31A of chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after the word "paid", in lines 25, 33 and 40, each time it appears, the following words:- or at the option of the employee, entitled to a contribution to a qualified retirement plan established in the employee's name under section 401(a) of the Internal Revenue Code and under chapter 32.

SECTION 11. Section 12 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in lines 59 and 60, the words ", and the terms thereof have been approved as reasonable by the emergency finance board".

SECTION 12. The definition of "Employee" in section 2 of chapter 32B of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an employee, if approved by vote of the municipal legislative body, and the municipality shall charge such individual 100 per cent of the premium.

SECTION 13. Said chapter 32B is hereby further amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:-

Section 9A. A county, except Worcester county, by vote of the county commissioners, a city having a Plan D or a Plan E charter by majority vote of its city council, any other city by vote of its city council, approved by the mayor, a regional school district by vote of the regional district school committee and a district by vote of the district at a district meeting, may provide that it will pay one-half of the amount of the premium to be paid by a retired employee under the first sentence of section 9. A town shall provide for the payment by vote of the town at a town meeting or if a majority of the votes cast in answer to the following question which shall be printed on the

official ballot to be used at an election in said town is in the affirmative:-

"Shall the town pay one-half the premium costs payable by a retired employee for group life insurance and for group general or blanket hospital, surgical, medical, dental and other health insurance?"

SECTION 14. Chapter 40 of the General Laws is hereby amended by striking out section 5B, as so appearing, and inserting in place thereof the following section:-

Section 5B. For the purpose of creating 1 or more stabilization funds, cities, towns and districts may appropriate in any year an amount not exceeding, in the aggregate, 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property or such larger amount as may be approved by the director of accounts. The aggregate amount in such funds at any time shall not exceed 10 per cent of the equalized valuation of the city or town as defined in section 1 of chapter 44.

The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

At the time of creating any such fund the city, town or district shall specify, and at any later time may alter, the purpose of the fund, which may be for any lawful purpose, including without limitation an approved school project under chapter 70B or any other purpose for which the city, town or district may lawfully borrow money. Such specification and any such alteration of purpose, and any appropriation of funds into or out of any such fund, shall be approved by two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said section 21C, in a town or district any such vote shall be taken at an annual or special town meeting, and in a city any such vote shall be taken by city council.

SECTION 15. Section 44F of said chapter 40, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "; provided, however, that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board".

SECTION 16. Said chapter 40 is hereby further amended by adding the following section:-

Section 60. (a) Notwithstanding any general or special law to the contrary, a city or town by vote of its town meeting, town council or city council with the approval of the mayor where required by law, on its own behalf or in conjunction with 1 or more cities or towns and under regulations issued by the director of housing and community development, in consultation with the department of economic development and the department of revenue, may adopt and prosecute an urban center housing tax increment financing plan, in this section referred to as a UCH-TIF plan, intended to encourage increased residential growth, affordable housing and commercial growth in urban center housing zones and do all things necessary thereto; provided, however, that the UCH-TIF plan shall:-

(i) designate any area of the city or town as an urban center housing tax increment financing zone, in this section referred to as a UCH-TIF zone, which shall be defined as a commercial center characterized by a predominance of commercial land uses, a high daytime or business population, a high concentration of daytime traffic and parking and a need for multi-unit residential properties; provided, however, that the designation of a UCH-TIF zone shall be subject to the approval of the department of housing and community development under regulations adopted by the department consistent with this section; provided further, that a city or town may not enter into any UCH-TIF agreement, as defined in clause (v), unless the area governed by the UCH-TIF agreement is so designated and approved by the department of housing and community development; and provided further, that in the case of a UCH-TIF plan adopted by more than 1 city or town, the areas designated as UCH-TIF zones shall be contiguous areas of those cities and towns;

(ii) describe in detail all construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such UCH-TIF zone as of the date of the adoption of the UCH-TIF plan; provided, however, that in the case of public construction as aforesaid, the UCH-TIF plan shall include a detailed projection of the costs and a betterment schedule for the defrayal of such costs; provided further, that the UCH-TIF plan shall provide that no costs of such public constructions shall be recovered through betterments or special assessments imposed on a party which has not executed a UCH-TIF agreement in accordance with clause (v); and provided, further, that in the case of private construction as aforesaid, the UCH-TIF plan shall include the types of affordable housing and residential and commercial growth which are projected to occur within such UCH-TIF zone, with documentary evidence of the level of commitment therefor including, but not limited to, architectural plans and specifications as required by the regulations;

(iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the UCH-TIF zone and for which an agreement has been executed in accordance with clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions expressed as an exemption percentage, not to exceed 100 per cent to be used in calculating the exemption under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that such exemptions shall be calculated for each such parcel as provided in said clause Fifty-first of said section 5 of said chapter 59 using an adjustment factor for each fiscal year since the parcel first became eligible for such exemption under this clause. The inflation factor for each fiscal year shall be a ratio:-

(1) the numerator of which, shall be the total assessed value of all parcels of all residential real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of said chapter 59; or

(2) the numerator of which, in a UCH-TIF zone where the property includes a mix of residential and commercial uses, shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue under said paragraph (f) of said section 21C of said chapter 59; and

(3) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, that such ratio should not be less than 1.

(iv) establish a maximum percentage of the costs of any public construction, referenced in clause (ii) and initiated subsequent to the adoption of the UCH-TIF plan, that can be recovered through betterments or special assessments against real property eligible for tax increment exemptions from property taxes under clause (iii) during the period of the parcel's eligibility for exemption from annual property taxes under said clause Fifty-first of said section 5 of said chapter 59, notwithstanding chapter 80 or any other general or special law authorizing the imposition of betterments or special assessments;

(v) include executed agreements, hereinafter referred to as UCH-TIF agreements, between a city and town and each owner of real property which is located in a UCH-TIF zone, but each such agreement shall include, but not be limited to, the following: (1) all material representations of the parties which served as a basis for the descriptions contained in the UCH-TIF plan in accordance with clause (ii) and which served as a basis for the granting of a UCH-TIF exemption; (2) any terms deemed appropriate by the city or town relative to compliance with the UCH-TIF agreement including, but not limited to, what shall constitute a default by the property owner and what remedies shall be allowed between the parties for any such defaults, including an early termination of the agreement; (3) provisions requiring that either 25 per cent of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 80 per cent of the median income

for the area in which the city or town is located as defined by the United States Department of Housing and Urban Development or such other requirement of affordable housing as is necessary to achieve financial feasibility for the development pursuant to regulations and guidelines promulgated by the department of housing and community development; (4) provisions stating that housing units that meet the affordability requirements of subclause (3) shall subject to use restrictions as defined in this section; (5) provisions stating that the property shall be subject to an option to purchase and a right of first refusal as defined in subsections (c) and (d); (6) a detailed recitation of the tax increment exemptions and the maximum percentage of the cost of public improvements that can be recovered through betterments or special assessments regarding a parcel of real property pursuant to clauses (iii) and (iv); (7) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to an agreement; and (8) a provision that the agreement shall be binding upon subsequent owners of the parcel of real property; and

(vi) delegate to a board, agency or officer of the city or town, the authority to execute agreements in accordance with clause (v).

(b) An executed UCH-TIF agreement shall be submitted by the applicable city or town to the department of housing and community development for the approval of the director; provided, however, that the city or town shall, if it has not previously done so, submit a plan showing the boundaries of its urban center housing zone and a report explaining the criteria used by the city or town in establishing the zone; provided, however, that the director shall review each UCH-TIF plan and agreement to determine whether they comply with the terms of this section and any regulations which may be adopted by the director of housing and community development; provided further, that the director shall certify, based upon the information submitted in support of the UCH-TIF plan by the city or town and through such additional investigation as the director shall make, that the plan and agreement are consistent with the requirements of this section and will further the public purpose of encouraging increased residential growth, affordable housing and commercial growth in the

commonwealth; provided further, that a city or town may, at any time, revoke its designation of a UCH-TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements under clause (v) of subsection (a); provided, further, that a revocation shall not affect agreements relative to property tax exemptions and limitations on betterments and special assessments under said clause (v) of said subsection (a) or use restrictions or options to purchase and rights of first refusal required by this section which were executed before the revocation; provided further, that the board, agency, or officer of the city or town authorized under clause (vi) of said subsection (a) to execute agreements shall forward to the board of assessors a copy of each such agreement, together with a list of the parcels included therein; and provided further, that an executed and approved UCH-TIF shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(c) Notwithstanding any other general or special law to the contrary, an affordable housing unit benefiting from a real estate tax exemption under this section that meets the affordability requirements of subclause (3) of clause (v) of subsection (a) shall continue to meet those requirements for 40 years or for its useful life, whichever is longer as may be specified in the recorded restriction. Such restriction shall be approved by the department of housing and community development in accordance with section 32 of chapter 184 and shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies. Upon the expiration of such restrictions, the department of housing and community development or its assignee shall have an option to purchase the property subject to or previously subject to a UCH-TIF agreement.

(d) (1) Within 120 days after the expiration of the affordability restrictions created under this section, the department or its assignee, who shall be a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase the property at its current appraised value reduced by any remaining obligation of the owner. Two impartial appraisers shall determine, within 60 days after the

expiration of the affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall select each such appraiser. The owner and the department, respectively, shall each designate 1 professional within 30 days after the expiration of the affordability restrictions. If there exists a difference in the valuations provided by the appraisals, the 2 valuations shall be added together and divided by 2 to determine the current appraised value of the property.

(2) Prior to a sale or transfer or other disposition of housing assisted under this section where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected under this section under the guidelines of the department, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice, by regular and certified mail, return receipt requested, of his intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold a first refusal option for the first 120 days after receipt of the owner's notice of intent to transfer the property. Failure to respond to the written notice of the owner's intent to sell, transfer or otherwise dispose of the property within 120 days after the receipt of the notice shall constitute a waiver of the right of first refusal by the department.

(3) No sale, transfer or other disposition of the land shall be consummated until either the first refusal option period has expired or the owner was notified in writing by the department or assignee in question that the option will not be exercised. Such option may be exercised only by written notice signed by a designated representative of the department or its assignee, mailed to the owner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected under this section under guidelines

issued by the department, such written notice shall state the name and address of the developer and the terms and conditions of the assignment. An affidavit before a notary public that the notice of intent was mailed on behalf of the owner shall conclusively establish the manner and time of the giving of the notice, but the affidavit, and the notice that the option will not be exercised shall be recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Each notice of intention, notice of exercise of the option and notice that the option will not be exercised shall contain the name of the record owner of the land and description of the premises to be sold or converted adequate for identification thereof. Each such affidavit before a notary public shall have attached to it a copy of the notice of intention to which it relates. The notices of intention shall be deemed to have been duly mailed to the parties above specified if addressed to them in care of the keeper of records for the party in question.

(4) Upon notifying the owner in writing of its intention to pursue its first refusal option during such 120-day period, the department or its assignee shall have an additional 120 days, beginning on the date of the termination of the first refusal option period, to purchase the property. The time periods may be extended by mutual agreement between the department or its assignee and the owner of the property; provided, however, that any such extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Within a reasonable time after request, the owner shall make available to the department or its assignee any information, which is reasonably necessary for the department to exercise its rights. The department or its assignee may purchase or acquire the property only for the purposes of preserving or providing affordable housing; provided, however, that such housing shall remain affordable for not less than 40 years. Such use restrictions shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(e) The owner of property subject to a UCH-TIF plan shall certify to the

city or town the income of the families or occupants, upon initial occupancy, of the affordable housing units designated in the UCH-TIF agreement and such certification shall be provided to the department on an annual basis. If the owner fails to provide certification or otherwise fails to comply with the UCH-TIF agreement, including failing to maintain the affordability of housing units assisted under this section, the city or town may place a lien on the property in the amount of the real estate tax exemptions granted pursuant to the UCH-TIF agreement for any year in which the owner is not in compliance with this subsection. If the city or town determines, with the approval of the department of housing and community development, that the owner is unlikely to come into compliance with the affordability requirements of subclause (3) of clause (v) of subsection (a), the city or town may place a lien on the property in the amount of the total real estate tax exemption granted pursuant to the UCH-TIF agreement. Any such lien shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

SECTION 17. Section 18 of chapter 40N of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words "of the emergency finance board established under the provisions of chapter 49 of the acts of 1933 or".

SECTION 18. The General Laws are hereby amended by inserting after chapter 40P the following chapter:-

CHAPTER 40Q. DISTRICT IMPROVEMENT FINANCING.

Section 1. (a) As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Base date", the last assessment date of the real property tax immediately preceding the creation of the district.

"Captured assessed value", the valuation amount by which the current assessed value of an invested revenue district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no captured assessed value.

"Development district", a specified area within the corporate limits of a city or town which has been designated as provided in section 2 and which is to be developed by the city or town under a development program.

"Development program", a statement of means and objectives designed to improve the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation within a development district. Means and objectives designed to increase or improve residential housing, both affordable and market rate, may also be addressed within a district and shall be considered part of a development program. The statement shall include:

- (1) a financial plan;
- (2) a complete list of public facilities to be constructed;
- (3) the use of private property;
- (4) plans for the relocation of persons displaced by the development activities;
- (5) plans, if any, for the development of housing, both affordable and market rate;
- (6) the proposed regulations and facilities to improve transportation;
- (7) the proposed operation of the district after the planned capital improvements are completed; and
- (8) the duration of the program which shall not exceed 30 years from the date of designation of the district.

"Financial plan", a statement of the costs and sources of revenue required to accomplish the development programs which shall include: (1) cost estimates for the development program; (2) the amount of indebtedness to be incurred; and (3) sources of anticipated capital.

"Inflation factor", a ratio: (1) the numerator of which shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue pursuant to paragraph (f) of section 21C of chapter 59;

and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1.

"Invested revenue district", a type of development district or portion of a district that uses tax increment financing under section 3.

"Invested revenue district development program", a statement which, in addition to the information required for a development program, shall also include: (1) estimates of the captured assessed value of the district; (2) a projection of the tax revenues to be derived from the invested revenue district in the absence of a development program; (3) the method of calculating the tax increment together with any provisions for adjustment of the method of calculation; (4) the board or officer of the city or town responsible for calculating the tax increment; (5) a statement as to whether the issuance of bonds contemplated under this chapter shall be general or special obligation bonds; (6) the portion of the captured assessed value to be applied to the development program and resulting tax increments in each year of the program; and (7) a statement of the estimated impact of tax increment financing on all taxing jurisdictions in which the district is located.

"Original assessed value", the aggregate assessed value of the district as of the base date, increased each year by a percentage equal to the inflation factor. The original assessed value shall be increased or decreased annually as a result of a change in the tax-exempt status of property within the district.

"Project", a project to be undertaken in accordance with the development program.

"Project costs", any expenditure made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city or town which are listed in a project plan as costs of improvements including, but not limited to, public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to residential, commercial or industrial users within a development district plus any costs incidental to those improvements, reduced by any income, special assessments or other revenues, other than tax increments, received or reasonably expected to be received by the city or town

in connection with the implementation of this plan.

Project costs shall include, but not be limited to:-

(1) "administrative costs", any reasonable charges for the time spent by city or town employees in connection with the implementation of a project plan;

(2) "capital costs", the actual costs of the construction of public works or improvements, new buildings, structures and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures; the acquisition of equipment; and the grading and clearing of land;

(3) "discretionary costs", those payments made by the appropriate body of a city or town that in its discretion are found to be necessary or convenient to the creation of development districts or the implementation of project plans.

(4) "financing costs", including, but not be limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(5) "improvement costs", those costs associated with developing new employment opportunities, promoting public events, advertising cultural, educational and commercial activities, providing public safety, establishing and maintaining administrative and managerial support and such other services as are necessary or appropriate to carry out the development program;

(6) "organizational costs", all reasonable costs relating to the conduct of environmental impact and other studies and informing the public about the creation of development districts and the implementation of project plans;

(7) "professional service costs", including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice or services;

(8) "real property assembly costs", any deficit incurred resulting from the sale or lease by the city or town, as lessor, of real or personal property within a development district for consideration which is less than its cost to the city or town;

(9) "relocation costs", all reasonable relocation payments made pursuant to a condemnation;

(10) "training costs", costs associated with providing skills, development and training for employees of businesses within the development district; provided, however, that these costs shall not exceed 20 per cent of the total project costs and shall be designated as training funds within 5 years of the issuance of bonds pursuant to this chapter for the project or the designation of the district, whichever occurs later; and

(11) "water and sewer line costs", which shall include the costs related to the construction or alteration of sewage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines or amenities on streets or the rebuilding or expansion thereto so long as required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district;

Project costs shall not include the cost of a building or a portion of a building used predominantly for the general conduct of government, such as a city hall, courthouse, jail, police or fire station or other state or local government office buildings.

"Project revenues", receipts of a city or town with respect to a project including, without limitation, tax increments, investment earnings and proceeds of insurance or disposition of property.

"Tax increment", that portion of all real and personal property taxes assessed by a city or town upon the captured assessed value of property in the development district. The portion of the tax levy attributable to the increased valuation after the base date shall be calculated using the same classification factors as were used as of the base date, or without classification factors, if property was not classified for tax purposes as of the base date. If the base date is earlier than the date as of which the commissioner of revenue makes the certification required by subsection (c) of section 2A of chapter 59, the project plan may provide for such further adjustment in calculating the tax increment as may be deemed appropriate to reflect changes of practice after the

base date with respect to the valuation of property in order to achieve assessment at full and fair cash valuation.

Section 2. (a) Notwithstanding any general or special law to the contrary, any city or town by vote of its town meeting, town council or city council with the approval of the mayor where required by law may designate development districts within the boundaries of the city or town provided, however, that: (1) a development district may consist of 1 or more parcels or lots of land, whether or not contiguous, or 1 or more buildings or structures, whether or not adjacent, on 1 or more parcels of land, provided that the total area of all development districts shall not exceed 25 per cent of the total area of a city or town; and provided that the boundaries of a development district may be altered only after meeting the requirements for adoption under this subsection; (2) the development district has been certified as an approved development district by the economic assistance coordinating council established in section 3B of chapter 23A and pursuant to regulations adopted by said council. The economic assistance coordinating council shall find, based on the information submitted to it in support of the designation of the development district by the city or town and additional investigation as the economic assistance coordinating council shall make, and incorporate into its minutes, that the designation of the development district is consistent with the requirements of this section and will further the public purpose of encouraging increased residential, industrial and commercial activity in the commonwealth.

(b) The city or town shall adopt a development program for each development district. The program shall be adopted at the same time as the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same certification requirements of subsection (a). Once approved, the program shall be altered or amended only after meeting the requirements for adoption.

(c) Within development districts and consistent with the development program, the city or town may acquire, construct, reconstruct, improve, preserve, alter, extend, operate, maintain or promote development intended to

meet the objectives of the development program. In addition to the powers granted by any other law, for the purpose of carrying on a project as authorized by this chapter, a city or town may:

(1) incur indebtedness as hereinafter provided and pledge tax increments and other project revenues for repayment thereof;

(2) create a department, designate an existing department, board officer, agency, municipal housing or redevelopment authority of the city or town or enter into a contractual agreement with a private entity to administer the activities authorized by this chapter;

(3) make and enter into all contracts and agreements necessary in order to carry out the development program;

(4) receive from the federal government or the commonwealth loans or grants for, or in aid of, a project and receive contributions from any other source to defray project costs;

(5) purchase or acquire by eminent domain pursuant to chapter 79 or chapter 80A, insofar as those laws may be applicable, and pursuant to all preliminary requirements prescribed by law, such property or interests therein within a district as the city or town may deem necessary in order to carry out the development program; provided, however, that any taking of property by eminent domain for any purpose for which the taking by the city or town could not be made in the absence of this chapter shall be authorized by a two-thirds vote as defined in section 1 of chapter 44;

(6) make relocation payments to persons, businesses or organizations that may be displaced as a result of carrying out the development program;

(7) clear and improve property acquired by it pursuant to the development program and construct public facilities thereon, or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration or repair of such property;

(8) cause parks, playgrounds or schools, water or sewer drainage facilities or any other public improvements that it is otherwise authorized to undertake, to be laid out, constructed or furnished in connection with the development program;

(9) lay out, construct, alter, relocate, change the grade of, make specific repairs upon or discontinue public ways and sidewalks in or adjacent to the development district;

(10) cause private ways, sidewalks, ways for vehicular travel and similar improvements to be constructed within the development district for the particular use of the development district or those dwelling or working therein;

(11) adopt ordinances or by-laws under section 5 of chapter 40A, or repeal or modify the ordinances or by-laws or establish exceptions to existing ordinances and by-laws, regulating the design, construction and use of buildings;

(12) sell, mortgage, lease as lessor, transfer or dispose of any property or interest therein acquired by it pursuant to the project plan for development, redevelopment or rehabilitation in accordance with the development program;

(13) invest project revenue as hereinafter provided; and

(14) do all things reasonably necessary or convenient to carry out the powers granted in this chapter.

Section 3. (a) The city or town may retain all or part of the tax increment of an invested revenue district for the purpose of financing the development program. The amount of tax increment to be retained shall be determined by designating the amount of captured assessed value to be retained. When a development program for an invested revenue district is adopted, the city or town shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The assessor shall certify the amount of the captured assessed value to the city or town each year.

(b) On or after the formation of an invested revenue district, the assessor of the city or town in which it is located shall, on request of the city or town, certify the original assessed value of the taxable property

within the boundaries of the invested revenue district. Each year, after the formation of an invested revenue district, the assessor of the city or town shall certify the amount by which the assessed value has increased or decreased from the original value.

(c) If a city or town has elected to retain all or a percentage of the retained captured assessed value under subsection (a), the city or town shall:

(1) establish a development program fund that consists of: (i) a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the costs of the development program fund; and (ii) a project cost account that is pledged to and charged with the payment of project costs as outlined in the financial plan and paid in a manner other than as described in subclause (i).

(2) set aside annually all tax increment revenues on retained captured assessed values and deposit all such revenues in the appropriate development program fund account in the following priority:

(i) to the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 4 and the financial plan; and

(ii) to the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

(3) to be permitted to make transfers between development program fund accounts as required; provided, however, that the transfers shall not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

(4) annually return to the general fund of the city or town any tax increment revenue in excess of those estimated to be required to satisfy the obligations of the development sinking fund account.

Section 4. (a) A city or town may, by a two-thirds vote as defined in

section 1 of chapter 44, authorize, issue and sell bonds including, but not limited to, general obligation or revenue bonds or notes, to finance all project costs needed to carry out the development program within a development district. Without limiting the generality of the foregoing, such bonds may be issued for the payment of project costs, which may include interest before and during the carrying out of a project and, for a reasonable time thereafter, such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out and financing the project.

(b) The bonds of each issue shall be dated and may be made redeemable before maturity with or without premium. Subject to the authorizing vote, the officers authorized to sell the bonds shall determine: the date of the bonds which shall mature within 30 years from their respective dates; their denomination; the place of payment of the principal and interest, which may be at a bank or trust company within or without the commonwealth; their interest rate; maturity; redemption privileges, if any, and the form and other details of the bonds. Notwithstanding a municipal charter or any general or special law to the contrary, bonds issued hereunder may provide for annual or more frequent installments of principal in equal, diminishing or increasing amounts with the first installment of principal to be due at any time within 5 years after the date of issuance of the bonds and, subject to the authorizing vote, may provide for such rates of interest as the officers authorized to sell the bonds shall deem proper, including rates variable from time to time as determined by such index, banker's loan rate or other method as may be specified in such bond. The bond shall be signed by the mayor or city manager as the case may be of a city or by a majority of the board of selectmen or town council of a town either manually or by facsimile thereof. Any coupons attached thereto shall bear the facsimile signature of the city or town treasurer.

(c) If an officer whose signature, or a facsimile of whose signature, shall appear on any bonds, coupons or notes issued under this chapter shall cease to be such officer before the delivery thereof, his signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery.

(d) The bonds shall be issued in registered form. Subject to the authorizing vote, the officers authorized to sell the bonds may sell the bonds in such manner, either at public or private sale, and for such price as they may determine shall best effect the purposes of this chapter.

(e) Before the preparation of definitive bonds, the city or town may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Provision may be made for the replacement of any bonds that shall have become mutilated or shall have been destroyed or lost.

(f) Bonds or notes issued hereunder may be secured in whole or in part by letters or lines of credit or other credit facilities. An insurance letter or line of credit or credit facility may provide for reimbursement to be made over a period of time, not to exceed 2 years, beyond the maturity date of the bonds or notes so secured.

(g) In the discretion of the officers authorized to sell the bonds but subject to the vote authorizing the bonds, bonds issued hereunder may be secured by trust agreements between the city or town and a corporate trustee, which may be a trust company or bank having the powers of a trust company within or without the commonwealth. A trust agreement hereunder shall be in such form and executed in such manner as may be determined by such officers. A trust agreement may pledge or assign project revenue, in whole or in part, and may provide that the owner or holder of bonds issued thereunder may have a lien or mortgage on a facility acquired, improved or constructed with the proceeds of the tax increment bonds, may contain provisions for protecting and enforcing the rights, security and remedies of the bondholders as may be reasonable and proper and not in violation of the law including, without limiting the generality of the foregoing: provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the city or town in relation to carrying out and otherwise administering the projects; the custody, safeguarding, investment and application of project revenues; the issuance of additional bonds hereunder; the determination of tax

increments; the fixing of fees and charges, if any, in relation to the projects; the collection of project revenues; the use of any surplus bond proceeds; the establishment of reserve and the replacement of bonds or coupons which shall become mutilated, destroyed or lost. Subject to this chapter, moneys subject to the trust agreement shall be held, invested and applied as provided therein, but moneys not deposited in trust with a corporate trustee shall be in the custody of the city or town treasurer.

(h) A bank or trust company may act as a depository or trustee of proceeds of bonds or of other monies under a trust agreement and furnish such indemnifying bonds or pledge securities required by the trust agreement. Any such trust agreement or resolution may set the rights and remedies of the bondholders and of the trustees and may restrict the individual right of action by a bondholder. All expenses incurred in carrying out the trust agreement or resolution may be treated as operating expenses.

(i) Notwithstanding chapter 106 or any other general or special law to the contrary: (1) any pledge hereunder shall be valid and binding and shall be deemed continuously perfected from the time it is made; (2) no filing shall be required under said chapter 106 or otherwise; (3) unless otherwise provided in the financing instruments, a pledge of project revenues shall be deemed to include a pledge of any accounts or general intangibles from which such revenues are derived whether existing at the time of the pledge or thereafter acquired by the city or town and the proceeds of such accounts or general intangibles; and (4) the pledged project revenue accounts and general intangibles shall be subject to the lien of the pledge without delivery or segregating and the lien of the pledge shall be valid and binding against all parties having claims in contract, tort or otherwise against the city or town.

(j) A pledge of project revenues under this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation and such revenues may be applied as required by the pledge without further appropriation. Notwithstanding this subsection, administrative expenses shall be subject to appropriation.

(k) In anticipation of the issuance of bonds under this chapter and

subject to the vote authorizing the bonds, the officers authorized to sell bonds may without further authorization issue temporary notes. The notes may be secured as in the case of bonds, and except as otherwise provided in this section, subsections (i), (k), (l) and (n) referring to bonds shall also be deemed to refer to the notes. The notes shall not require the seal of the city or town or a facsimile thereof. The notes shall be payable within 2 years from their respective dates, but the principal of and interest on notes issued for a short period may be refunded from time to time by the issuance of other notes maturing within 2 years from the original date of issuance of the indebtedness being refunded.

(l) A city or town may, when authorized by a majority vote as defined in section 1 of chapter 44, issue refunding bonds for the purpose of paying any of its bonds issued hereunder at maturity or upon acceleration of redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the city or town deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of the bonds, the expense of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other purposes from the proceeds of such refunding bonds as may be required by an agreement securing the bonds. The issuance of refunding bonds, the maturities and other details thereof, the security thereof, the rights of holders thereof and the rights, duties and obligations of the city or town with respect thereto shall be governed by this chapter relating to the issuance of bonds other than refunding bonds insofar as the same may be applicable.

(m) The bonds and notes issued under this chapter shall not at any time be included in the debt of the city or town for the purpose of ascertaining its legal borrowing capacity. Except as otherwise provided in this chapter, such bonds and notes shall not be subject to chapter 44.

(n) Subject to an agreement securing bonds or notes issued under this chapter, the proceeds of bonds or notes pledged for tax increments and other

project revenues may be deposited or invested in such investments as may be lawful for fiduciaries in the commonwealth.

(o) All project revenues received pursuant to this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

(p) A holder of bonds or notes issued under this chapter, or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing the same, except to the extent the rights herein given may be restricted by an agreement securing the same, may bring suit upon the bonds, notes or coupons and may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights under the laws of the commonwealth or granted under this chapter or under any such agreement and may enforce or comply with the performance of all duties required by this chapter or by an agreement to be performed by the city or town or by any officer thereof.

(q) Bonds and notes issued under this chapter shall be securities in which insurance companies, trust companies, banking associations, savings banks, cooperative banks, investment companies, executors, trustees and other fiduciaries and all other persons whatsoever who are or may hereafter be authorized to invest in bonds or notes or other obligations of a similar nature may properly and legally invest funds, including capital deposits or other funds in their control and belonging to them. The debt obligations shall be securities which may properly and legally be deposited with and received by a state or municipal office, agency or political subdivision of the commonwealth for any purpose for which the deposits of bonds or other obligations of the commonwealth may now or hereafter be authorized by law.

(r) Notwithstanding this chapter or any recitals in any bonds or notes issued under this chapter, all bonds and notes shall be deemed to be investment securities under chapter 106.

(s) The bonds and notes issued under this chapter, their transfer and the income therefrom, including any profits made on the sale thereof, shall be at all times free from taxation within the commonwealth.

SECTION 19. Section 41 of chapter 41 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- Except as otherwise provided in a collective bargaining agreement, the treasurer or other fiscal officer may pay the payroll to an employee on a biweekly or semimonthly basis.

SECTION 20. Said chapter 41 is hereby further amended by inserting after section 95 the following 2 sections:-

Section 95A. Constables appointed pursuant to the provisions of sections 91, 91A and 91B or otherwise elected to serve as such in a city or town shall deposit with the city or town treasurer 50 per cent of the fees collected by them for the service of civil process in excess of the fee structure established in section 8 of chapter 262 prior to July 1, 2003. The treasurer shall deposit such funds into the General Fund of the city or town and they shall be expended, subject to appropriation by a majority vote of the city council in a city or by a majority vote of town meeting in a town, for any purpose for which the city or town deems necessary.

Section 95B. Each constable shall annually on or before April 15 file with the city or town treasurer an account signed under the penalties of perjury of all fees and money received by him under section 8 of chapter 262 for the service of civil process. Such account shall include an itemization of all civil process fees charged by the constable's civil process office, all revenue received from said fees, the compensation structure for personnel engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. The account shall also include the number of civil process transactions by nature and quantity performed by such constable, fee schedule per transaction for those transactions where section 8 of chapter 262 permit the constable discretion to set the fee, the role of the city or county treasurer in the operation of the civil process division, the number of full-time and part-time employees and independent contractors utilized for the service of civil process, and the compensation structure used to compensate

civil process employees and independent contractors.

SECTION 21. Section 99E of said chapter 41, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 20 to 22, inclusive, the words "; provided, however, that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board".

SECTION 22. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out clause (3A) and inserting in place thereof the following clause:-

(3A) For remodeling, reconstructing or making extraordinary repairs to public buildings owned by the city or town, including original equipment and landscaping, paving and other site improvements incidental or directly related to such remodeling, reconstruction or repair, for a term not exceeding 20 years.

SECTION 23. Said section 7 of said chapter 44, as so appearing, is hereby amended by striking out clause (9) and inserting in place thereof the following clause:-

(9) For the cost of equipment, 5 years or for such maximum term, not exceeding 15 years, based upon the maximum useful life of the equipment as determined by the board of selectmen or the mayor or city manager of the city or town.

SECTION 24. Section 8 of said chapter 44, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words ", such amounts as may be approved by the emergency finance board".

SECTION 25. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 54 and 55, the words "emergency finance board, established under section 47 of chapter 10" and inserting in place thereof the following words:- majority of the members of a board composed

of the attorney general, the state treasurer, the state auditors, and the director of accounts, or their designees.

SECTION 26. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 63 and 64, the words "emergency finance board, established under section 47 of chapter 10" and inserting in place thereof the following words:- majority of the members of a board composed of the attorney general, the state treasurer, the state auditor and the director of accounts, or their designees.

SECTION 27. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out clause (15) and inserting in place thereof the following clause:-

(15) For the construction of sewers, sewerage systems and sewage treatment and disposal facilities, or for the lump sum payment of the cost of tie-in to such services in a contiguous city or town, for a period not exceeding 30 years; provided, however, that the city or town has an enterprise or special revenue fund for sewer services and that the accountant or auditor or other officer having similar duties in the city or town, shall have certified to the treasurer that rates and charges have been set at a sufficient level to cover the estimated operating expenses and debt service related to the fund.

SECTION 28. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 139 and 140, the words "and shall be subject to the approval of the emergency finance board".

SECTION 29. Said section 8 of said chapter 44, as so appearing, is hereby amended by striking out, in line 143, the words "the emergency finance board,".

SECTION 30. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in line 152, the words "with the approval of

the Emergency Finance Board, for the portion of the project so financed and for such amounts as so approved".

SECTION 31. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 176 to 179, inclusive, the words "such amounts as may be approved by the emergency finance board established under section one of chapter forty-nine of the acts of nineteen hundred and thirty-three, and for such maximum term, not exceeding ten years, as said board shall fix" and inserting in place thereof the following words:- for such maximum term not exceeding 10 years.

SECTION 32. Section 10 of said chapter 44, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Except as otherwise provided by law, a city or town shall not authorize indebtedness to an amount exceeding 5 per cent of the equalized valuation of the city or town. A city or town may authorize indebtedness in excess of 5 per cent but not in excess of 10 per cent, of the aforesaid equalized valuation; provided, however, that the amount of indebtedness so authorized shall be subject to the approval of the members of a board comprised of the attorney general, the state treasurer, the state auditor, and the director of accounts, or their designees, which approval may be given either before or after such authorization.

SECTION 33. Section 20 of said chapter 44, as so appearing, is hereby amended by adding the following 2 sentences:- Effective with the fiscal year 2005 tax rate approval process, additions to the levy limit for a debt exclusion are restricted to the true interest cost incurred to finance the excluded project. Premiums received at the time of sale shall be offset against the stated interest cost in computing the debt exclusion.

SECTION 34. The first paragraph of section 21A of said chapter 44, as so

appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The city council of a city, the board of selectmen of a town, the school committee of a regional school district and the prudential committee, if any, otherwise, the commissioners of a district may provide for the issuance of refunding bonds or notes of the city, town, regional school district or district for the purpose of paying or refunding all or any designated part of an issue of bonds or notes then outstanding, including the amount of any redemption premium thereon; provided, however, that no such refunding bonds shall be payable over a period longer than the period during which the original bonds or notes so refunded shall be paid pursuant to law.

SECTION 35. Said chapter 44 is hereby further amended by inserting after section 42 the following section:-

Section 42A. The department of the state auditor, in accordance with section 12 of chapter 11, shall establish a 2 year pilot program for the audit of the accounts, programs, activities, and other public functions of a particular city, town, county, district, or regional school district where there are suspected irregularities or illegal acts. Any audit undertaken under this section shall include an audit of any accounts, programs, activities and functions of a city, town, county, district or regional school district for the purpose of identifying any irregularities or illegal acts by a department, office or agency of the respective city, town, county, district or regional school district. On or before April 1 of each year, the department of the state auditor shall submit a report to the house and senate committees on ways and means which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit. Nothing in this section shall require the department of the state auditor to perform an audit of a city, town, county, district or regional school district.

SECTION 36. Section 53G of said chapter 44, as appearing in the 2002

Official Edition, is hereby amended by striking out, in lines 2 to 5, inclusive, the words "section nine or twelve of chapter forty A or section eight-one Q of chapter forty-one, section twenty-one of chapter forty B or section thirty one of chapter one hundred and eleven" and inserting in place thereof the following words:- section 8C of chapter 40, section 9 or 12 of chapter 40A, section 21 of chapter 40B, section 81Q of chapter 41 or section 31 of chapter 111.

SECTION 37. Section 1 of chapter 44A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Board" and inserting in place thereof the following definition:-

"Board", a board comprised of the attorney general, the state treasurer, the state auditor, and the director of accounts, or their designees.

SECTION 38. Section 5 of chapter 44B of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(f) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of community preservation and upon recommendation of the community preservation committee and, notwithstanding section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid.

NO SECTION 39.

SECTION 40. Section 4 of chapter 51 of the General Laws, as so appearing, is hereby amended by adding the following subsection:- (e) The name and address of any law enforcement or public safety personnel who so requests shall not appear on the street list and such names shall not be disclosed to any person.

SECTION 41. Section 2D of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "In any city or town which accepts the provisions of this section pursuant to subsection (f), whenever" and inserting in place thereof the following word:-
Whenever.

SECTION 42. Said section 2D of said chapter 59, as so appearing, is hereby further amended by striking out subsection (f) and inserting the following subsection:-

(f) The local appropriating authority, as defined in section 21C, may reject this section by written notification to the department of revenue.

SECTION 43. Section 5 of said chapter 59, as so appearing, is hereby amended by striking out, in line 569, the word "cent." and inserting in place thereof the following words:- cent; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 44. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "unmarried", in line 609, the following words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 45. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "granted", in line 643, the following words:- ; provided, however, that the assessors may refuse to grant an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 46. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "allowed", in line 685, the following words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 47. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "allowed", in line 731, the words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 47A. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "fifty-nine", in lines 1347, 1351, 1355, and 1359, the following words:- or section sixty.

SECTION 48. Section 5 of said chapter 59 is hereby further amended by adding the following clause:-

Fifty-fifth. With respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member pursuant to a proprietary lease as the member's domicile shall be deemed to be real property owned by such member for the purposes of this section, provided, that such portion of the real estate is represented by the member's share or shares of stock in the cooperative corporation and the percentage of such portion to the whole is determined by the percentage of the member's shares to the total outstanding stock of the corporation, including shares owned by the corporation. Such portion of such real property shall be eligible for any exemption provided in this section if such member meets all requirements for such exemption. Any exemption so provided shall reduce the

taxable valuation of the real property owned by the cooperative corporation; provided, however, that the reduction in taxes realized thereby shall be credited by the cooperative corporation against the amount of such taxes otherwise payable by or chargeable to such member. Nothing in this clause shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but shall apply to the land on which such manufactured home or mobile home is located if all other requirements of this clause are met. This clause shall take effect in a city or town upon its acceptance by the city or town.

SECTION 49. Section 5C of said chapter 59, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

For purposes of this section, with respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member pursuant to a proprietary lease as such member's domicile and is used as such member's principal residence for income tax purposes shall be deemed to be real property owned by such member for purposes of this section, provided that the portion of the real estate is represented by the member's share or shares of stock in the cooperative corporation and the percentage of such portion to the whole is the percentage of such member's shares in the cooperative corporation to the total outstanding stock of the corporation, including shares owned by the corporation. Such portion of such real property shall be eligible for exemption from taxation pursuant to this section if such member meets all requirements for such exemption. Any exemption so provided shall reduce the taxable valuation of the real property owned by the cooperative corporation; provided, however, that the reduction in taxes realized thereby shall be credited by the cooperative corporation against the amount of such taxes otherwise payable by or chargeable to such member. Nothing in this paragraph shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but shall apply to the land on which such manufactured home or mobile home is located if all other requirements of this paragraph are met. This paragraph shall take effect in a

city or town upon its acceptance by the city or town.

SECTION 50. Paragraph (g) of section 21C of chapter 59, as so appearing, is hereby amended by adding the following paragraph:-

If a question as aforesaid shall provide for assessing taxes for the purpose of funding a stabilization fund established pursuant to section 5B of chapter 40, the assessors shall in each successive fiscal year assess property taxes for the same purpose in an amount equal to 102.5 per cent of the amount assessed in the next preceding year in which additional taxes were assessed for such purpose, but only if the local appropriating authority votes by a 2/3 vote to appropriate such increased amount in such year for such purpose. The voters of the city or town, by majority vote at a referendum, may alter the purpose of a stabilization fund or authorize the assessment of such additional property taxes for another purpose. In any year in which the local appropriating authority does not vote to appropriate such amount as aforesaid, the total property tax levy for such year shall be reduced by the amount that could otherwise have been assessed, so that such additional taxes may not be assessed for any other purpose. The maximum levy limit under paragraph (f) shall not be affected by any such reduction in the levy for such year.

SECTION 51. Section 25 of said chapter 59, as so appearing, is hereby amended by striking out, in line 1, the words ", except Boston".

SECTION 52. Section 57 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- A tax bill sent out pursuant to this section shall contain information indicating the amount, if any, of the tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charges which is overdue more than 90 days.

SECTION 53. Section 57C of said chapter 59, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

This section shall be applicable in any city or town which accepts this section, notwithstanding section 57. Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out not later than July 1 of each year. In the case of cities and towns with quarterly tax payments, the preliminary tax shall be due and payable in 2 installments, the first installment due on August 1 and the second installment on November 1, after which dates, if unpaid, they shall become delinquent and subject to interest as provided herein.

SECTION 54. Said section 57C of said chapter 59, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, and in the case of cities and towns with quarterly payments, shall be due and payable in 2 installments, on February 1 and on May 1 respectively, after which dates, if unpaid, they shall become delinquent and, in the case of cities and towns with semi-annual payments, shall be due and payable on April 1, after which date, if unpaid, they shall become delinquent. A tax bill sent out pursuant to this section shall contain information indicating the amount, if any, of the tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charges which is overdue more than 90 days.

SECTION 55. Chapter 60 of the General Laws is hereby amended by inserting after section 3D the following section:-

Section 3E. Partial payments of bills for taxes, excises or municipal charges and fees, including partial payments under sections 22 and 62, shall be applied first to any interest due, then to collection charges, that have been added to the bills, unless the amount of the interest and charges taken together may be waived and the collector or other officer responsible for collecting the bills determines that the partial payment should be first applied to the underlying obligation.

SECTION 56. Section 15 of said chapter 60, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 6, the words "two dollars" and inserting in place thereof the following figure:- \$10.

SECTION 57. Said section 15 of said chapter 60, as so appearing, is hereby further amended by inserting after the word "advertisement", in line 7, the following words:- and the necessary legal fees for search of title.

SECTION 58. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 9, the words "two dollars" and inserting in place thereof the following figure:- \$5.

SECTION 59. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 11, the words "one dollar" and inserting in place thereof the following figure:- \$10.

SECTION 60. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 12 and 13, the words "two dollars for each parcel of land included therein" and inserting in place thereof the following words:- the cost thereof.

SECTION 61. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 14, lines 15 and 16, and in lines 23 and 36, the words "five dollars" and inserting in place thereof, in each instance, the following figure:- \$10.

SECTION 62. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 18 the words "nine dollars" and inserting in place thereof, the following figure:- \$12.

SECTION 63. Said section 15 of said chapter 60, as so appearing, is

hereby further amended by striking out, in lines 21 and 22, the words "fourteen dollars" and inserting in place thereof the following figure:- \$17.

SECTION 64. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 26 to 28, inclusive, the words "not more than ten dollars for each day or not more than eight hours for the keeper while he is in charge, and twenty dollars a day for the officer" and inserting in place thereof the following words:- the cost thereof.

SECTION 65. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 32 and 33, the words "ten dollars, and a sum, not exceeding fifteen dollars for travel, at the rate of fifteen cents" and inserting in place thereof the following words:- the necessary costs of the arresting officer and the cost of travel, at the rate of \$.30.

SECTION 66. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 37, the words "fifteen cents" and inserting in place thereof the following figure:- \$.30.

SECTION 67. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 42 to 44, inclusive, the words "one dollar, and travel at the rate of fifteen cents per mile from the office of the collector to the place where service is made, but in no event more than fifteen dollars" and inserting in place thereof the following words:- the cost thereof, but not more than \$40.

SECTION 68. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 52, the words "five dollars" and inserting in place thereof the following figure:- \$15.

SECTION 69. Said section 15 of said chapter 60, as so appearing, is

hereby further amended by adding the following clause:-

19. For the recording of the instrument of taking under section 54, the cost thereof.

SECTION 70. Section 65 of said chapter 60, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words "; provided, however, that such legal fees shall not exceed five hundred dollars".

SECTION 71. Section 1 of chapter 60A of the General Laws, as so appearing, is hereby amended by inserting after the word "allowed", in line 124, the following words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the veteran or person did not satisfy all of the requisites of this section at the time the exemption was first granted.

SECTION 72. Section 12 of chapter 64J of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "semi-annually" and inserting in place thereof the following word:- quarterly.

SECTION 73. Section 1I of chapter 69 of the General Laws, as so appearing, is hereby amended by inserting after the sixth paragraph the following 5 paragraphs:-

For the purposes of improving the performance of school districts and individual public schools and the efficacy and equity of state and federal programs and for the purposes of reducing the amount of paperwork to relieve the administrative burden on local districts, each district shall file with the commissioner once in each 3 year period a comprehensive, 3 year district improvement plan. The plan shall be developed and submitted in a manner and form prescribed by the department of education.

The plan shall, to the extent feasible, be designed to fulfill all planning requirements of state and federal education laws, and shall include, but not be limited to: (a) an analysis of student and subgroup achievement gaps

in core subjects; (b) identification of specific improvement objectives; (c) a description of the strategic initiatives the district will undertake to achieve its improvement objectives; and (d) performance benchmarks and processes for evaluating the effect of district improvement initiatives. Also the plan shall describe the professional development activities that will support each district improvement initiative and the teacher induction and mentoring activities that will be undertaken to support successful implementation of the district's improvement efforts.

On an annual basis, not later than September 1 of each year, each district shall prepare and have available for state review an annual action plan. The district annual action plan shall enumerate the specific activities, persons responsible, and timelines for action to be taken as part of the strategic initiatives set forth in the district's 3 year improvement plan, and shall identify the staff and financial resources allocated to support these initiatives.

Annually, the principal of each school, in consultation with the school council established pursuant to this section, shall adopt student performance goals for the schools consistent with the school performance goals established by the department of education pursuant to state and federal law and regulations and, consistent with any educational policies established for the district shall assess the needs of the school in light of those goals and formulate a school plan to advance such goals and improve student performance. The school's plan to support improved student performance shall include, but not be limited to, the same components required for district improvement plans and shall conform to department and district specifications to ensure that such school improvement plans meet state and federal law requirements. Each school improvement plan shall be submitted to the superintendent and the school committee for review and approval not later than July 1 of the year in which the plan is to be implemented, according to a plan development and review schedule established by the district superintendent.

The 3-year comprehensive district plan, annual district action plan and annual school improvement plan shall replace any district and school plans

previously required under the education reform including, but not limited to, the school improvement plans required by section 59C of chapter 71, the provisional educator program plan required by section 38G of chapter 71, the professional development plan required by section 38Q of chapter 71, the curriculum accommodation plan required by section 38Q of chapter 71, the MCAS success plan, if any, required under this section and any other report or plan called for by the General Laws or regulation, which, in the professional opinion of the commissioner, would be most effectively presented as part of the coordinated district or school plan for improving student achievement. The department shall identify any additional reports or plans called for by any general law or regulation which can be incorporated into this single filing in order to reduce paperwork and eliminate duplication.

SECTION 74. Section 6 of chapter 70B of the General Laws, as so appearing, is hereby amended by striking out, in lines 33 and 34, the words "emergency finance board established under section 7 of chapter 10" and inserting in place thereof the following words:- board of selectmen or mayor or city manager of the city or town.

SECTION 75. Section 14B of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Copies of such agreement shall be submitted to the department of education, and subject to its approval, to the several towns for their acceptance.

SECTION 76. Section 16 of said chapter 71, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words ", that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board; and provided, further,".

SECTION 77. Said section 16 of said chapter 71, as so appearing, is

hereby further amended by striking out, in lines 100 and 101, the words "not exceeding an amount approved by the emergency finance board".

SECTION 78. Said section 16 of said chapter 71, as so appearing, is hereby further amended by inserting after clause (n) the following clause:-

(o) To refinance any debt incurred under paragraphs (d), (e), or (n), in accordance with the provisions of section 2IA of chapter 44.

SECTION 79. Section 16G of said chapter 71, as so appearing, is hereby amended by striking out, in line 8, the words "emergency finance board" and inserting in place thereof the following words:- director of accounts.

SECTION 80. Section 16H of said chapter 71 is hereby repealed.

SECTION 81. Section 55B of said chapter 71 is hereby repealed.

SECTION 82. Section 59C of said chapter 71, as appearing in the 2002 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The principal of each school, in consultation with the school council established pursuant to this section, shall on an annual basis, in conformity with the provisions of section 1I of chapter 69, develop and submit for approval by the district superintendent a plan for improving student performance. Said plan shall be prepared in a manner and form prescribed by the department of education and shall conform to any policies and practices of the district consistent therewith.

SECTION 83. Section 68 of said chapter 71, as so appearing, is hereby amended by inserting after the fifth sentence the following sentence:- In the case of transportation provided to students that is not required by this section or by any other general or special law, a school committee may assess fees to the transported student up to an amount sufficient to cover the costs

incurred by the district; provided, however, that no student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay the fee; and provided further, that a school committee may choose to exempt families at other income levels as it may determine.

SECTION 84. Chapter 74 of the General Laws is hereby amended by striking out section 8A, as so appearing, and inserting in place thereof the following section:-

Section 8A. A town where a person resides who is admitted to a day school in another town under section 7, may, through its school committee, when necessary, provide for the transportation of such person and may provide the transportation for a fee, regardless of where the pupil lives, but a student eligible for a free or reduced lunch under the federal school lunch program, shall not be required to pay a fee; provided, that a school committee may choose to exempt families at other income levels as it may determine.

SECTION 85. Section 9 of chapter 89 of the General Laws, as so appearing, is hereby amended by striking out, in line 56, the words "fifty dollars" and inserting in place thereof the following figure:- \$150.

SECTION 86. Section 11 of said chapter 89, as so appearing, is hereby amended by striking out, in line 17, the words "one hundred dollars" and inserting in place thereof the following figure:- \$150.

SECTION 87. Section 2F of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 63 and 64, the words "and the rider education program to promote driver and motorcycle safety" and inserting in place thereof the following words:- ; and cities and towns for the purpose of supporting local programs as organized by a single city or town or a state-wide organization on behalf of all cities and towns.

SECTION 88. Section 3 of said chapter 90, as so appearing, is hereby

amended by striking out, in line 39, and in lines 55 and 56, the word "triplicate" and inserting in place thereof, in each instance, the following word:- quadruplicate.

SECTION 89. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "and", in line 43, the second time it appears, the following words:- local and out-of-state.

SECTION 90. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "vehicles", in line 56, the following words:- , 1 copy to the local assessor's office.

SECTION 91. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 59, the words "fifty dollars" and inserting in place thereof the following figure:- \$200.

SECTION 92. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 64, the word "officers, and" and inserting in place thereof the following:- officers. Each such school or college shall provide to all nonresident students the following warning in bold type not less than 1/2 inch in height: "IT IS UNLAWFUL FOR A NONRESIDENT STUDENT TO FAIL TO FILE A NONRESIDENT DRIVER STATEMENT WITH THE POLICE DEPARTMENT LOCATED IN THE SAME CITY OR TOWN AS THE SCHOOL OR COLLEGE ATTENDED, IN ACCORDANCE WITH SECTION 3 OF CHAPTER 90 OF THE MASSACHUSETTS GENERAL LAWS. FAILURE TO FILE SUCH STATEMENT IS PUNISHABLE BY A FINE NOT TO EXCEED \$200." A written acknowledgment of receipt of this warning shall be required. Each such school or college.

SECTION 93. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "the", in line 67, the first time it appears, the following words:- written acknowledgement of receipt of the nonresident driver statement warning, the.

SECTION 94. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "vehicle", in line 74, the following words:- , which information shall be forwarded by the school or college to the assessor's office of the municipality listed as the student's local residence.

SECTION 95. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 75 and 76, the words "or to issue a decal as required by this paragraph" and inserting in place thereof the following words:- , to issue a decal as required by this paragraph or to forward register data to the assessor's office of a municipality in which a nonresident student resides.

SECTION 96. Subsection (c) of section 3 1/2 of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

As an alternative to criminal prosecution, violation of this section may be disposed of as a civil motor vehicle infraction in the amount of \$500 under chapter 90C, fines recovered under this paragraph shall be divided as follows: 50 per cent of the fines shall be paid over to the treasury of the city or town in whose jurisdiction the motor vehicle is customarily garaged, of which not less than 40 per cent of the city or town share shall be appropriated to the police department in the city or town; and 50 per cent of the fines shall be paid over to the treasurer of the commonwealth to be deposited in the Highway Fund to offset costs associated with the implementation of this section.

SECTION 97. The fifth paragraph of section 20A of said chapter 90, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The schedule of fines shall be uniform for the same offense committed in the same zone or district, if any, and shall not exceed \$25 if paid within 21 days, \$35 if paid thereafter but before the parking clerk reports to the registrar as provided below, and \$50 if

paid thereafter.

SECTION 98. Section 20E of said chapter 90, as so appearing, is hereby amended by striking out, in lines 64 and 72, the words "thirty cents" and inserting in place thereof, in each instance, the following figure:- \$.60.

SECTION 99. Section 2 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out, in line 61, the word "fourth" and inserting in place thereof the following word:- sixth.

SECTION 100. Section 2 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "fifty dollars" and inserting in place thereof the following figure:- \$75.

SECTION 100A. Said section 2 of said chapter 140 is hereby further amended by striking out the figure "\$75", inserted by section 100, and inserting in place thereof the following figure:- \$100.

SECTION 101. Section 59 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 5 and 6, the following words "one hundred dollars" and inserting in place thereof the following figure:- \$200.

SECTION 102. Clause (9) of section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the sixth sentence the following sentence:- Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the firearm identification card application fee as is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

SECTION 103. The first paragraph of subsection (i) of section 131 of said chapter 140, as so appearing, is hereby amended by adding the following

sentence:- Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the license application fee as is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

SECTION 104. The first paragraph of section 10A of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A fee of \$25, unless otherwise set in a town by the board of selectmen or town council, and in a city by the mayor, may be charged by the head of the fire department for any permit granted under authority of this section, and any such permit may be revoked for cause by him or by the marshal, but in no event shall any such fee be greater than \$50.

SECTION 105. Paragraph (a) of subsection (1) of section 44D of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the fourth sentence the following sentence:- The bidder or offeror shall also include in its bid or offer and update statement the list of completed construction projects submitted to the division in its most recent application for contractor certification.

SECTION 106. Subsection (3) of said section 44D of said chapter 149, as so appearing, is hereby amended by adding the following sentence:- Said certificate shall include the number of prior construction projects evaluated by the division of capital asset management and maintenance, the contractor's average numerical value on those projects evaluated, and the number of projects given numerical values below a passing score, as defined by the division's regulations or guidelines, during each of the previous 5 years.

SECTION 107. The first paragraph of section 6B of chapter 159B of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, a city

or town by vote of its council or selectmen may establish the maximum rate that may be charged for the towing away of motor vehicles within its jurisdiction, but the maximum rate charged by a city or town shall not exceed the maximum rate established by the department.

SECTION 108. Chapter 200A of the General Laws is hereby amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:-

Section 9A. (a) On or before November 1 of each year, the treasurer of a city or town holding checks issued by the city or town which have not been cashed and which are deemed abandoned under section 5 may issue a written determination that it is in the best interests of the city or town to follow the procedures set out in this section rather than the procedures set out in sections 7, 7A, 7B, 8, 8A, 8B, 9, 10, 10A and 11. In the event that the treasurer of a city or town issues a written determination that it is in the best interests of the city or town to follow the procedures set out in this section, all checks in the possession of the city or town which were issued by that city or town and which are deemed abandoned under section 5 shall be governed by subsections (b), (c), (d) and (e) rather than said sections 7, 7A, 7B, 8, 8A, 8B, 9, 10, 10A and 11.

(b) The treasurer of a city or town holding checks each in an amount of less than \$100 issued by the city or town, which have not been cashed and which are deemed abandoned under section 5, shall send a notice to the last known address of each apparent owner by first class mail and, if the city or town maintains an official Internet website, it shall post conspicuously on the website, for a period of not less than 60 days, a notice to inform the apparent owner of each check of the process necessary to rebut the presumption of abandonment, provided that the records of the city or town do not disclose that the address is inaccurate. After 60 days from the mailing or posting of the notice, if the apparent owner fails to respond, the amount may be credited to the general treasury of the city or town.

(c) The treasurer of a city or town holding checks each in an amount of

\$100 or more issued by the city or town which have not been cashed and are deemed abandoned under section 5, shall send a notice to the last known address of each apparent owner by first class mail and, if the city or town maintains an official Internet website, it shall post conspicuously on the website for a period of not less than 60 days, a notice to inform the apparent owner of each check of the process necessary to rebut the presumption of abandonment, provided that the records of the city or town do not disclose that the address is inaccurate. After 60 days from the mailing or posting of the notice, if the apparent owner fails to respond, the treasurer shall cause a notice of the checks to be published in a newspaper of general circulation which is printed in English in the county in which the city or town is located.

Each published notice or Internet website posting shall be entitled, "Notice of Names of Persons Appearing to be Owners of Checks Issued by (city or town), Which Have Not Been Cashed and are Deemed Abandoned" and shall contain the names in alphabetical order and last known address of each of the apparent owners.

Each published or posted notice shall also contain a statement that information about each check may be obtained by a person expressing an interest in the check by addressing an inquiry to the treasurer of the city or town whose name and address shall be included in the notice.

(d) Any person claiming an interest in a check issued by a city or town, which has not been cashed and which has been deemed abandoned under section 5, may establish a claim at any time on or before 1 year after the date of the publication. The treasurer of the city or town shall determine all such claims and shall send a written notice of his determination to the claimant immediately following such determination. At any time within 20 days after such notice, the claimant may apply for a hearing and redetermination of his claim. After an appropriate hearing before the treasurer of the city or town or his designee, the treasurer shall make a final determination.

The treasurer of a city or town or his designee may take testimony under oath and may subpoena and require the attendance of witnesses and the production of books, papers and documents which may be pertinent to the

hearing. The treasurer of the city or town shall render a decision within 30 days after a hearing. A claimant adversely affected by a decision may appeal within 20 days to the district, municipal or superior court of the county in which the city or town is located. The claimant shall have a trial de novo. An appeal shall be perfected by the claimant within 20 days after receiving notice of an adverse determination from the treasurer of the city or town. A party adversely affected by a decree or order of the district, municipal or superior court may appeal to the appeals court or the supreme judicial court within 20 days from the date of the decree.

If the validity of a claim shall be determined in favor of the claimant, the treasurer of the city or town shall pay over to the claimant the amount of the check at issue in the claim, with interest at the rate of $\frac{1}{12}$ of 1 per cent per month from the date that the claimant first made his claim.

If the claimant is domiciled in a country or state outside the United States or its territories and the treasurer of a city or town determines that there is no reasonable assurance that the claimant will actually receive the payment to which he is entitled under this section in substantially full value, the superior court, in its discretion or upon a petition by the city or town treasurer, may order that the city or town retain such payment.

(e) A city or town in possession of a check issued by the city or town which has not been cashed and which has been deemed under section 5 to be abandoned and which has not been determined to belong to a claimant within 1 year of the date the check has been deemed abandoned may retain the check. The check shall thereafter be credited to the general treasury of the city or town.

NO SECTION 109.

SECTION 110. Notwithstanding any general or special law to the contrary, within 120 days of the effective date of this act, the department of telecommunications and energy shall hold a public hearing and issue a report relative to reducing the number of double poles within the commonwealth pursuant to section 34B of chapter 164 of the General Laws. The report shall

include the department's recommendations and proposed legislation for enforcement of this section and waivers from this section. The department shall report to the committees on ways and means and the joint committee on government regulations its recommendations and proposed legislation to provide penalties for the enforcement of this section. The department shall also provide an analysis of whether local enforcement by ordinance or by-law is preferable to statewide enforcement of this section.

SECTION 111. Section 5 of chapter 717 of the acts of 1957 is hereby repealed.

SECTION 112. The commissioner of revenue shall investigate and study the economic impact on each city and town of the tax exemption granted to nonprofit, charitable and educational institutions including, but not limited to, private secondary schools, under clause Third of section 5 of chapter 59 of the General Laws. The study shall include an assessment of the amelioration afforded to the respective city or town of any payments in lieu of taxes made by respective charitable organizations within each jurisdiction and an assessment of the property taxes that would be owed to the city or town if the tax exempt status of the charitable organization were terminated. The commissioner shall report the findings of this study to the legislature's joint committee on taxation not later than December 31, 2003; provided, that the commissioner of revenue shall consult with any mayor or town manager who hosts a private college in their community and the Massachusetts Municipal Association when conducting this study.

SECTION 113. The legislative body in a city or town that has not accepted section 73 of chapter 4 of the acts of 2003 may vote to establish a municipal tax amnesty program under said section 73, and may vote to extend the amnesty period until a date not later than June 30, 2004. The legislative body of a city or town that has accepted said section 73 may vote to extend the amnesty period until a date not later than June 30, 2004.

SECTION 114. (a) A city or town (1) in Barnstable, Dukes or Nantucket County, (2) that has a municipal light department or plant or that owns the poles and wires, and (3) that accepts this section as provided in subsection (b), may incur debt under section 8 of chapter 44 of the General Laws for 10 years, for the underground utility construction necessary to provide replacement facilities for poles and overhead wires and associated overhead structures removed pursuant to an ordinance or by-law adopted under section 22D of chapter 166 of the General Laws.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, may submit to the voters at any city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: "Shall (the city or town) accept the law that allows (the city or town) to incur debt for certain underground utility construction?" If a majority of the votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise.

SECTION 115. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state retirement board, shall establish and implement a retirement incentive for certain employees of the abolished Essex county, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by said board for any of the benefit options under this retirement incentive program, an employee: (i) shall be an employee of the commonwealth at the Essex county sheriff's department on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1, 2 or 4 of said retirement system in accordance with clause (g) of subsection (2) of section 3 of chapter 32 of the General Laws; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32, or subdivision (1) of section 10 of said chapter 32 upon the date

of retirement requested in his written application for retirement with said board; (v) shall have filed a written application with the board in accordance with paragraph (b).

The total number of eligible employees who may receive the benefit of the retirement incentive program shall be limited to 40. Employees with the greater number of years of creditable service on the effective date of this act shall be approved by the state retirement board before approval may be given to employees with a lesser number of years of creditable service on the effective date of this act. The application filed for retirement under this act may be delivered in person or by mail to the state retirement board. No employee shall be eligible for more than 1 incentive by virtue of the application of a different incentive.

Words used in this section shall have the same meaning as they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this section shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

(b) Notwithstanding any provision of section 5 of said chapter 32 that requires a retirement date within 4 months of the filing of an application for superannuation, in order to receive the retirement benefit provided by this section, an eligible employee shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than August 15, 2003. All applicants must be retired no later than September 30, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this paragraph. Each such employee shall request and receive a combination of years of creditable service and years of age, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws. Notwithstanding the credit, the total normal yearly

amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this section, an election of a retirement option under section 12 of said chapter 32 shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a comparison of the expected lifetime retirement benefits provided by this section; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of the cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group

insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not desire to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this section. Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 90 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement.

(f) The sheriff may fill a position vacated as a result of an applicant's participation in the retirement incentive program if said sheriff determines that the position is vital to the public health, public safety or other critical operations of the commonwealth and Essex county sheriff's department. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the Essex county sheriff's department shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the Essex county sheriff's department pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal 2005 for refilled positions in the Essex county sheriff's department shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the Essex county sheriff's department pursuant to the retirement incentive program had such positions not been vacated.

(g) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by September 26, 2003 the total value of compensation of the last pay period prior to August

29, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(h) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this section. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before December 31, 2003.

(i) The Essex county sheriff's department shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each employee.

(j) Notwithstanding any general or special law or collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this section, an employee who elects to retire under this section and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/3 of such payment upon retirement in 2003, 1/3 of such payment on July 1, 2004 and 1/3 on July 1, 2005. Each employee shall sign a statement that he has agreed to receive said scheduled payments prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this section. The state board of retirement shall deny an application for early retirement under this section by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this paragraph is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such provision of the agreement on behalf of all members of the bargaining unit who file applications under this section.

SECTION 116. (a) (1) Notwithstanding chapter 32 of the General Laws or

any other general or special law to the contrary and upon the acceptance of this section on or before November 1, 2003 by the legislative and executive authorities within a city, town or county or an authority or district within a city, town or county or regional retirement system, this section shall apply to an eligible employee who: (i) shall be an employee of the city, town, county, authority or district and an active member in service of the appropriate city, town, county or regional retirement system or shall be an employee of a regional school district and an active member in service of the state retirement system, but not a member of the state teachers' retirement system or Boston teachers' retirement system on the date of the regional school district's acceptance of this section or on the date of the city, town, county, authority or district's acceptance of this section; (ii) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the effective retirement date specified in his written application to the retirement system; (iii) shall have filed a written application with the retirement system in accordance with paragraph (7); and (iv) shall be classified in Group 1, Group 2 or Group 4 in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32. If the legislative authority in a town fails to accept this section by October 1, 2003, then the executive authority in a town may accept this section without the approval of the legislative authority. Notwithstanding the notice provisions in section 10 of chapter 39 of the General Laws or any other general or special law to the contrary, at least 7 days notice shall be given of any special town meeting that may be called in pursuance of a warrant to accept this section. Notwithstanding said section 10 of said chapter 39, or any other general or special law to the contrary, the selectmen shall call such special town meeting, upon request in writing of 200 registered voters or by 10 per cent of the total number of registered voters of the town, whichever number is lesser, and such meeting shall be held not later than 30 days after the receipt of such request.

Notwithstanding this section or any general or special law to the

contrary, the legislative and executive authorities within a city, town, county or regional retirement system may designate the departments which the early retirement incentive program shall apply.

(2) For the purposes of this section, "legislative authority" shall mean a town meeting in a town or in a town having a town council form of government, the town council or the town meeting if the town council so deems, the city council subject to its charter in a city and the county advisory board in a county other than the counties of Suffolk, Nantucket and Barnstable, in which cases the county commissioners shall serve as the legislative authority, the governing body of the authority in an authority and the district meeting in a district, except for a regional school district, in which case the regional district school committee shall be the legislative authority, and "Executive authority" shall mean the board of selectmen in a town, the mayor in a city, the county commissioners in a county, the governing body of the authority in an authority and the district meeting in a district, except for a regional school district in which case the regional district school committee shall be the executive authority. Any additional retirement benefits provided by this section for employees of regional school districts who are active members in service of the state retirement system shall be funded by the appropriate regional school districts. The early retirement incentive program shall be administered by the appropriate city, town, county, state or regional retirement system and each system shall promulgate regulations to implement the program.

(3) Notwithstanding said chapter 32 to the contrary, the normal yearly amount of the retirement allowance for an eligible employee shall be based on the average annual rate of regular compensation as determined under paragraph (a) of subdivision (2) of section 5 of said chapter 32 and shall be computed according to the table contained in said paragraph (a) based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased either by adding up to 5 years of age or by adding up to 5 years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than 5, but the

executive authority in a city, town, county, authority or district may limit the amount of additional credit for service or age or a combination of service or age offered. The executive authority in a city, town, county, authority or district may limit the total number of employees for whom it will approve a retirement calculated under this section or the total number of employees within each group classification for whom it will approve a retirement calculated under this section and, if participation is limited, the retirement of employees with greater years of creditable service shall be approved before approval shall be given to employees with lesser years of creditable service.

(4) Words used in this section shall have the same meaning as they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An eligible employee who retires and receives an additional benefit in accordance with this section shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32, except that for the purposes of this section and notwithstanding subdivision (1) of section 10 of said chapter 32 requiring a member classified in Group 2 to have attained age 55 on the date of his termination of service in order to receive a Group 2 benefit, any employee eligible pursuant to the criteria established in this section, who is classified in Group 2 and who is at least 50 years of age but not yet 55 years of age, shall be eligible for a retirement allowance equal to that prescribed for a member classified in Group 2 upon the application for the additional benefit in accordance with this section.

(5) The total normal yearly amount of the retirement allowance, as determined in accordance with section 5 of said chapter 32, of an eligible employee who retires and receives an additional benefit under the early retirement incentive program in accordance with this section shall not exceed 80 per cent of the average annual rate of his regular compensation received during any period of 3 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last 3 years of creditable service preceding retirement,

whichever is greater.

(6) Employees eligible to participate in the judiciary retirement incentive program pursuant to chapter 218 of the acts of 2001, employees eligible to participate in the retirement incentive program pursuant to chapter 219 of the acts of 2001, members of the state employees' retirement system, members of the teachers' retirement system and teachers who are members of the State- Boston retirement system, and employees of sheriff's departments shall not be eligible to receive any additional benefit provided pursuant to this section.

(7) Notwithstanding any provision of said section 5 of said chapter 32 that requires a retirement date within 4 months of the filing of an application for superannuation retirement in order to receive the retirement benefit provided by this section, an eligible employee shall file his application for retirement not later than a date determined by the executive authority, which shall be not later than December 2, 2003. The retirement date for eligible employees shall be determined by the executive authority and shall be not earlier than the effective date of this section and shall be not later than December 31, 2003. The retirement date for any elected official retiring under this section shall not be earlier than December 1, 2003. Notwithstanding subsection (b), the date of retirement for employees of a city retirement board and town retirement board shall be 30 days after the retirement date determined by the executive authority in the city or town. Notwithstanding said subsection (b), the retirement date for eligible employees of a county retirement board and regional retirement board shall be January 30, 2004.

(8) The executive director of the public employee retirement administration commission shall analyze, study and value the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the early retirement incentive program established by this section for each retirement system. The executive director shall file a report of his findings to the board, in writing, on or before December 31, 2004, together with copies thereof to the county commissioners, the regional retirement board, the mayor, the board of selectmen, the governing body of an

authority, the district committee or the regional school district committee, as the case may be.

(9) In accordance with section 22D of said chapter 32, the retirement board of a system which administers this section shall revise its retirement funding schedule to reflect the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with this section. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero, it shall be an obligation of the applicable city, town, county, authority or district to fund such liability and there shall be appropriated to the applicable pension reserve fund in each such fiscal year the amount required by the funding schedule and the updates thereto.

(b) (1) A city, within a city retirement system, whose legislative and executive authorities have accepted this section, shall provide to employees of the retirement board of such city retirement system the same rights and privileges of the early retirement incentive program as provided in this section under the same terms and conditions of that retirement program. A town, within a town retirement system, whose legislative and executive authorities have accepted this section, shall provide to employees of the retirement board of such town retirement system the same rights and privileges of the early retirement incentive program as provided in this section under the same terms and conditions of that retirement program. A county whose legislative and executive authorities have accepted this section, shall provide to employees of the retirement board of such county the same rights and privileges of the early retirement incentive program as provided in this section, under the same terms and conditions of such retirement program.

(2) Employees of the retirement board of a regional retirement system, upon acceptance by the legislative and executive authorities of the regional retirement system, shall be eligible to receive the rights and privileges of the early retirement incentive program as provided in subsection (a), under the same terms and conditions as provided in said subsection (a) except that for the purposes of this paragraph and the paragraphs (3) and (7) of said

subsection (a), the executive authority of the regional retirement system shall be the regional retirement board and the legislative authority shall be the regional retirement board. Notwithstanding chapter 34B of the General Laws, any person serving as the fifth member of a county retirement board shall, on the effective date of this section, be eligible for re-election as such fifth member notwithstanding that such member is an employee, retiree or official of a constituent governmental unit within the system.

(3) Employees of the Essex Agricultural and Technical Institute who are members of a regional retirement system, upon acceptance by the legislative and executive authorities, shall be eligible to receive the rights and privileges of the early retirement incentive program as provided in subsection (a), under the same terms and conditions as provided in said subsection (a) except that for the purposes of this paragraph and paragraphs (3) and (7) of said subsection (a), the executive authority of the Essex Agricultural and Technical Institute shall be the board of trustees and the legislative authority shall be the board of trustees.

(4) Employees of the Minuteman Regional School District, Blue Hills Regional School District and Greater Lawrence Sanitary District who are members of the Minuteman Regional School District Retirement System, Blue Hills Regional School District Retirement System or the Greater Lawrence Sanitary District Retirement System, upon acceptance by the legislative and executive authorities, shall be eligible for the early retirement incentive program as provided in said subsection (a). For the purposes of this section, the executive and legislative authority for the Greater Lawrence Sanitary District shall be the district board.

(c) The executive authority in consideration of the benefits conferred in this section, shall negotiate to agreement any proposed changes of any payment due to the employees for total accrued vacation time and unused sick leave in accordance with chapter 150E.

SECTION 117. Notwithstanding section 63 of chapter 44 of the General Laws or any other general or special law to the contrary, during fiscal years 2004

and 2005, in a town, following a majority vote by the board of selectmen that is ratified by a special or annual town meeting, or in a city, following a majority vote of the city council and approval by the mayor, the proceeds of the sale or other disposal of real estate, including the taking by eminent domain by another governmental unit, but other than that acquired through tax title foreclosure, by a city, town or district, that exceed \$500, may be applied for any purpose or purposes for which the city, town or district deems necessary during said fiscal years, except that the proceeds of a sale in excess of \$500 of any park land by a city, town, or district shall be used only by said city, town, or district for acquisition of land for park purposes or for capital improvements to park land.

SECTION 118. Notwithstanding section 72 of chapter 44 of the General Laws or any other general or special law to the contrary, any funds received by a city, town or regional school district pursuant to said section 72 shall be considered unrestricted revenue of the city, town or regional school district. During fiscal year 2005 and fiscal year 2006, a city or town shall deposit in a separate account for expenditures by the school committee no less than 50 per cent of any such funds received. A school committee may receive a percentage of such amount that is larger than said 50 per cent if the committee negotiates an agreement with the executive body of the city or town to receive such a larger percentage. A school committee may make expenditures from the separate account for any lawful educational purpose without further appropriation. Any expenditure from said account on items qualifying as net school spending shall supplement the net school spending requirement of the district. The receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section 2 of chapter 70 of the General Laws. This section shall apply, during fiscal years 2005 and 2006, only to cities, town, or regional school districts: (a) which receive a reduction of chapter 70 school aid of 15 to 20 per cent, as such aid is distributed in chapter 26 of the acts of 2003 and (b) whose net school spending requirement for fiscal year 2004 is less than its net school spending requirement for

fiscal year 2003 as such spending requirement has been calculated pursuant to section 3 of the general appropriation act for fiscal year 2004. This section shall not apply to any city or town that has finally approved its fiscal year 2004 budget before the effective date of this act.

SECTION 119. Notwithstanding any general or special law to the contrary, cities and towns may be eligible bidders on state contracts for maintenance of public ways, including, but not limited to, snow and ice removal. The secretary of transportation and construction shall file a report with the house and senate committees on ways and means and the secretary of administration and finance on the progress of this initiative no later than February 1, 2004. The report shall include, but not be limited to, the following: the number of municipalities which have bid for said contracts, the number of municipalities which have been awarded said contracts, the total mileage of the state highway system which is being maintained through such contracts, and a progress report on the promptness and quality of the maintenance work being carried out by said municipalities.

SECTION 120. (a) Notwithstanding any general or special law to the contrary, the department of housing and community development, in consultation with the department of revenue, shall establish a pilot mixed-use building rehabilitation abatement program for the purpose of stimulating the development of affordable housing in mixed-use structures. The department of housing and community development may approve applications from cities and towns for the creation of not more than 300 units of housing in each of the 3 fiscal years beginning in fiscal year 2004.

(b) No application shall be accepted unless it is accompanied by a signed agreement, approved by the department, between the owner and the municipality and binding on subsequent owners of the property, stating that 50 per cent of the housing units assisted by the abatement program shall be affordable to occupants whose income is less than 80 per cent of the median income for the area in which the city or town is located as defined by the United States

Department of Housing and Urban Development. A unit that meets the affordability requirements of the previous sentence shall continue to meet those requirements for 20 years or for the useful life of the property, whichever is longer. If the owner of property benefited by the pilot program fails to certify to the city or town and to the department of housing and community development compliance with these affordability restrictions, the city or town may place a lien on the property in the amount of the real estate abatements granted pursuant to the pilot program.

(c) Abatements granted shall be for the commercial portion of the property and shall not exceed 7 years duration. The amount of abatement granted shall be equivalent to the difference between the commercial and residential rate established by the city or town, unless the department of housing and community development finds that an additional amount is necessary to make the rehabilitation project economically feasible. In no case shall the amount of the abatement exceed 50 per cent of the established residential tax rate for the property.

(d) The department of housing and community development shall promulgate rules and regulations to implement the pilot mixed-use building rehabilitation abatement program.

SECTION 121. Notwithstanding any general or special law, rule, or regulation to the contrary, the Quabbin regional school committee may conduct a pilot program to provide additional flexibility in scheduling. The district may reduce the school year requirements contained in 603 CMR 27.03, but the district shall maintain a 5 day work week and it must fully comply with the structured learning time requirements contained in 603 CMR 27.04. The pilot program shall be subject to collective bargaining law, and to the approval of town meetings in each member town of the district. The district, in conjunction with the department of education, shall issue a report on the success of the initiative no later than March 1, 2004, to the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees and the house and senate clerks.

SECTION 122. Notwithstanding any general law or special law to the contrary, any city or town or combination of cities and towns may use any existing alternate financing structure including, but not limited to, those established pursuant to section 53F> of chapter 44 of the General Laws for police, solid waste, fire, sewer and water, without requiring the municipality or municipalities to seek approval by way of a local referendum question or other ballot initiative to implement the alternate financing structure. Approval by the officer or body granted executive authority and legislative authority in each city or town shall be considered sufficient. If a city or town uses an alternate financing structure pursuant to this section, there shall be no effect on any collective bargaining agreements.

SECTION 123. Notwithstanding any general or special law to the contrary, the city council of a city may, on recommendation of the mayor, transfer within the last 2 months of fiscal years 2003, 2004 and 2005, any amount appropriated for the use of any department to the appropriation for any other department. In a town, the selectmen or town council, with the concurrence of the finance committee or other entity established under section 16 of chapter 39 of the General Laws, may transfer within the last 2 months of fiscal years 2003, 2004 and 2005 any amount appropriated for the use of any department to the appropriation for any other department. Transfers under this section may not exceed, in the aggregate, 3 per cent of the annual budget of the department from which the transfer is made. A transfer under this section shall not be made from any appropriation for a municipal light department under chapter 164 of the General Laws or for a school district as defined in section 2 of chapter 70 of the General Laws.

SECTION 124. Notwithstanding any general or special law to the contrary, each sheriff receiving an appropriation in items 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, 8910-0619 or 8910-0000 shall file a report with the house and senate committees on ways and means no later than

February 1, 2004 detailing the civil process fees charged by said sheriffs civil process office, all revenue received from said fees, the compensation structure for deputy sheriffs engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. Said report shall include, but not be limited to, the number of civil process transactions by nature and quantity performed by each civil process office or division annually, fee schedules per transaction for those transactions where section 8 of chapter 262 of the General Laws afford the sheriff discretion to set the fee, the organizational/corporate structure of the civil process office or division in relation to the sheriff's office, the role played by the state or county treasurer in the financial operation of the civil process office or division, an income statement for calendar year 2002, a breakdown of the types and amount of civil process served in 2002, a fee schedule for calendar year 2002, including a list of fees set at the sheriffs discretion, the number of full-time, part-time employees and independent contractors utilized by sheriffs for the service of civil process, the compensation structure used to compensate for such civil process employees and independent contractors, the amount and nature of sheriff's office resources used to support the civil process operation in fiscal year 2002 and fiscal year 2003, the amount and nature of civil process resources used to support the operations and functions of the sheriff's office in fiscal year 2002 and fiscal year 2003, the amount of civil process revenues, if any, deposited into the General Fund of the commonwealth pursuant to section 5 of chapter 34B of the General Laws, the amount of civil process revenues, if any, deposited with the county treasurer pursuant to section 22 of chapter 37 of the General Laws, the amount of revenues retained by said civil process division or sheriff's office and the statutory authorization relied upon to so retain that amount, a five-year history of all revenues collected from civil process fees, revenues collected per civil process transaction for fiscal year 2003 and, a comprehensive list of all expenditures associated with all revenues generated from the collection of civil process fees.

SECTION 125. Notwithstanding any general or special law to the contrary, the commissioner of education and the chancellor of higher education shall prepare a report on vocational education programs at the postsecondary level offered or to be offered pursuant to sections 37B and 37C of chapter 74 of the General Laws for the purpose of determining the success and necessity of such programs, including but not limited to, an evaluation of the number of certificates or diplomas awarded, the demographic makeup of the student participants, and how and by whom such programs should be funded, including but not limited to, an evaluation of discounts and scholarships available and the level of contributions, if any, from the state, municipalities, and students. In preparing such report the commissioner of education and the chancellor of higher education, may consult with such parties as they deem necessary, including but not limited to, the Massachusetts Association of School Superintendents, the Massachusetts Federation of Teachers, the Massachusetts AFL-CIO, the Massachusetts Municipal Association, the Massachusetts Association of School Committees, and the Massachusetts Community Colleges Executive Office. Such report, together with any recommendations, shall be submitted to the joint committee on education, arts and humanities on or before December 31, 2003.

SECTION 126. Notwithstanding any general or special law to the contrary, the civil service commission shall carry forward for the period of 1 year the exam grades of applicants for municipal fire and police departments who are residents of the commonwealth and serving in any branch of the United States military outside the United States, and who are unable to take those exams during calendar year 2003 because of said military duty; provided, however, that only passing grades shall be carried forward; and provided further, that the grades shall appear on the commission's list of eligible applicants for appointment to municipal fire and police departments.

SECTION 127. Notwithstanding any general or special law to the contrary, the division of purchased services of the department of procurement which,

under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated for fiscal year 2003 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4) and provided further, that upon request of a program said division shall authorize a fiscal year 2004 price for the program to charge out-of-state purchasers at the price determined on the first Wednesday in February 2003 or pursuant to this section, whichever is greater.

SECTION 128. (a) Notwithstanding any general or special law in a city, town, district, or authority which accepts the provisions of this subsection, the appropriation for fiscal year 2004 and 2005 for the unfunded portion of said city or town's unfunded pension liability may be less than the amount required by the funding schedule adopted pursuant to this section or subsection 6A of section 22 or pursuant to a special act; provided, however, that in no event may the appropriation for such year be less than the normal cost component of the appropriation required by such schedule nor shall said appropriation be reduced by an amount more than the amount by which said city or town was reduced in local aid payments, either in the aggregate or only the amounts appropriated for the purposes of lottery aid and additional assistance in the aggregate, received pursuant to section 3 of chapter 184 of the acts of 2002, as further reduced pursuant to section 3 of chapter 26 of the acts of 2003. No city or town shall implement the provisions of this section without the approval of the department of revenue and the public employee retirement administration commission; and furthermore, no municipality may implement the provisions of this section if it has available a special statutory emergency reserve that requires at least a balance of 2.5% of prior year non-school departmental appropriations and said balance is fully unexpended.

(b) The decision to accept the provisions of this section shall be made by both the executive and legislative bodies of the governmental unit in which the employees are members of the system. For purposes of this subsection, "executive body" shall mean the mayor in a city, the board of selectmen in a

town or whoever is designated as such by a city or town charter, and "legislative body" shall mean the city council in a city, the town meeting in a town or the town council in a city or town that has a council form of government. A notice from the retirement board shall be provided to the respective legislative body notifying them of the option. Included in the notice shall be a summary of the existing funding schedule setting forth the normal cost and the amortization component of fiscal year 2004 and fiscal year 2005 appropriations and a description of the estimated impact of reducing that appropriation on future appropriations. This notice shall be submitted on or before the fifteenth day after the acceptance of this section.

(c) Upon notification by the clerk of the legislative body of the amount so appropriated, the retirement board shall notify the actuary who shall issue a revised appropriation letter in accordance with paragraph (c) of subsection (7) of said section 22 of said chapter 32. Notwithstanding any general or special law to the contrary, the amount of the reduction in the appropriation resulting from the acceptance of this section shall be expended solely for the direct benefit of the employees and retirees of the governmental unit who are members of the system.

(d) In any city, town, district, or authority which accepts the provisions of this subsection, the retirement board of said system, shall, on or before January 1, 2004, submit to the actuary a revised funding schedule that incorporates the impact of reducing the appropriation for fiscal year 2004 and 2005; provided however that, notwithstanding the provisions of this section or any general or special law, said revised schedule and any future updates thereto may be designed to reduce the unfunded actuarial liability of said system to 0 no later than 1 year after said fully funded due date if 1 year is taken, but in no case shall the due date extend beyond June 30, 2028.

(e) In a city, town, district, or authority, the employees of which are members of a county or regional system, the retirement board of said system shall provide the notice of the option to adopt this subsection. In any such system in which the appropriation is allocated in accordance with the proportion that the aggregate of the annual rates or regular compensation of

all members of such system who are employees of any such governmental unit bears to the total of all such aggregates for all such members of such system, the actuary shall provide the retirement board with an estimate of the normal cost component of the appropriation and the amortization component of the appropriation required by such city or town for fiscal year 2004 and fiscal year 2005.

SECTION 129. (a) Notwithstanding any general or special law to the contrary, any city or town within the counties of Barnstable, Nantucket, Dukes and Bristol which accepts this section pursuant to subsections (b) and (c) may impose an embarkation fee upon all passenger ferry trips, excluding those ferries that transport less than 100 passengers per day, originating from a port located within such city or town, at a rate up to, but not exceeding \$1 dollar per purchased ticket, whether the purchased ticket is for one way or roundtrip.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, in each city and town with a port may submit to the voters at the next city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: "Shall the (city or town) accept the law that allows (city or town) to impose an embarkation fee of up to (amount not exceeding \$1) on certain passenger ferry trips?" If a majority of votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise.

(c) The operator of the ferry service shall pay the embarkation fee imposed under this section to the commissioner of revenue on a quarterly basis. The commissioner shall credit 100 per cent of the monies to any city or town which has accepted this section and does not share any harbor with any other city or town. For a city or town which itself has no ferry service but shares a harbor with a city or town which has accepted this section, 25 per cent shall be paid to said city or town, the remaining 75 per cent is to be distributed to the city or town which voted to accept the provisions of this section. All sums received by the commissioner under this section as embarkation fees, penalties

or forfeitures, interest, costs of suit and fines shall be distributed, credited and paid by the state treasurer at least quarterly upon certification of the commissioner to each city and town that has adopted this section.

(d) Any city or town which receives monies from this section shall deposit said monies in a special fund, to be solely appropriated for the purpose of mitigating the impacts of ferry service on said city or town. Monies deposited may be appropriated for services including, but not limited to, providing harbor services, public safety protection, emergency services or infrastructure improvements within and around the harbor of any city or town which receives monies from this section.

(e) This section shall take effect on the first day of the calendar quarter following 30 days after such acceptance of subsections (b) and (c), or on the first day of such later calendar quarter as the city or town may designate.

(f) Any city or town that votes to accept this section may also vote, in the manner prescribed above, to exempt commuter excursion fares from the embarkation fee and the text of the ballot question in subsection (b) shall so indicate. For the purposes of this section, commuter fare shall mean any fare paid for through the purchase of a book of multiple tickets, through the Steamship Authority's "Islands Preferred Excursion Program," or through the purchase of a pass.

SECTION 130. There shall be a special commission to study the sale of tax receivables pursuant to section 2C of chapter 60 of the General Laws and other matters relative to petitions for foreclosure pursuant to section 65 of said chapter 60. The commission shall examine the existing procedures for the sale of tax receivables and make recommendations on potential improvements. The commission shall consult with appropriate professionals with expertise in the field. The commission shall consist of the commissioner of the department of revenue or designee; the commissioner of the department of housing and community development or designee; the chairpersons of the house and senate committees on taxation who shall serve as co-chairs; 2 members of the house of

representatives, 1 of whom shall be appointed by the house minority leader; and 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; 1 member appointed by the Massachusetts municipal association; 1 member of the citizen's housing and planning association; and 1 member appointed by the Massachusetts treasurers and collectors association.

SECTION 131. Within 60 days after passage of this act, the contiguous municipalities of the South Central Massachusetts Economic Target Area shall take steps necessary to approve the inclusion of East Brookfield in the South Central Massachusetts Economic Target Area, subject to chapter 23A of the General Laws.

SECTION 132. Within 60 days after the passage of this act, the contiguous municipalities of the Ware River Valley Economic Target Area shall take steps necessary to approve the inclusion of the town of Brookfield in the Ware River Valley Economic Target Area, subject to the provisions of chapter 23A of the General Laws.

SECTION 133. Any person who was employed by a municipality as an administrative hearing officer, paid as an independent contractor and whose title was later determined by said municipality to be classified as an employee pursuant to the provisions of section 1 of chapter 32 of the General Laws may establish credit for time in service to said municipality before said position's reclassification; but no credit shall be allowed unless such person has paid into the Annuity Savings Fund of the retirement system of said municipality, in one sum or in installments, upon such terms and conditions as the board prescribe an amount equal to that which would have been withheld as regular deductions for such previous period he had been a member of the retirement system during the period the service was rendered, plus regular interest. The maximum creditable service allowable under this paragraph for any member shall not exceed 3 years.

SECTION 134. The executive office of public safety shall provide a grant to the cities and towns that are required to provide services to nuclear power plants as "host communities" as defined under the radiological emergency response plan of the commonwealth approved on January 10, 2003, utilizing if available, but not limited to, federal Department of Homeland Security funds or other existing federal or state monies available to the Executive office of public safety or any of its agencies, departments or divisions. The grant shall be sufficient to provide for public safety service equal to the levels of public safety service provided for as of January 10, 2003, and shall be awarded only if the host community meets the following criteria, as determined by the division of local services of the department of revenue: (1) the community has exhausted all available reserves; (2) the community is taxing to its levy limits; and (3) the local aid reductions for fiscal year 2004 for the community would cause a reduction in the number of public safety employees in the city or town.

SECTION 135. The joint committee on taxation shall study the residential tax factor and the alternative tax factor of chapter 58 of the General Laws and all proposed changes to the motor vehicle excise of chapter 60A of the General Laws. The committee shall file a report of its findings and any proposed legislation to the clerks of the house and the senate not later than December 1, 2004.

SECTION 136. The committee on state administration shall study and make recommendations for changes to the procurement thresholds as defined in chapter 30B of the General Laws and any other aspects of existing laws and regulations to assist municipalities. The committee shall file recommendations for changes, if any, with the house and senate clerks by October 1, 2003.

SECTION 137. There shall be a special commission to investigate, study, and make a report on the annual municipal census conducted under section 4 of chapter 51 of the General Laws. The report shall assess the necessity of

continuing an annual municipal census and include recommendations to the legislature on alternative methods for achieving the results currently derived from the "municipal census". The commission shall consist of 13 members; the house and senate chairs of the joint committee on election laws who shall serve as co-chairpersons; the secretary of the commonwealth or designee; the jury commissioner or designee; 2 representatives of the Massachusetts Town Clerks Association, 1 of whom shall be from a rural community; a representative of the Massachusetts City Clerks Association; a representative of the Massachusetts Municipal Association; the director of the Massachusetts Institute of Social and Economic Research or designee; 1 member of the house of representatives to be appointed by the speaker and 1 member of the house of representatives to be appointed by the minority leader; 1 member of the senate to be appointed by the president of the senate and 1 member of the senate to be appointed by the minority leader. The commission shall file its report, including its recommendations and a draft of any legislation necessary to carry out its recommendations, by filing the same with the clerks of the house of representatives and the senate not later than December 1, 2003.

SECTION 138. There shall be established a special commission to investigate, study, and make legislative recommendations on the adequacy and efficiency of laws and regulations governing public construction projects. The commission shall consist of 19 members, 1 of whom shall be appointed by the governor who shall serve as the co-chairman of the commission; 3 of whom shall be members of the senate, 2 of whom shall be appointed by the president of the senate, of which 1 shall serve as co-chairman of the commission and 1 of whom shall be appointed by the minority leader of the senate; 3 of whom shall be members of the house of representatives, 2 of whom shall be appointed by the speaker of the house, of which 1 shall serve as co-chairman of the commission and 1 of whom shall be appointed by the minority leader of the house of representatives; the commissioner of the department of capital asset management and maintenance; the inspector general; the chairperson or his designee of the Massachusetts Municipal Association; the president or his designee of the

Massachusetts Building Trades Council; the president or his designee of the Associated General Contractors of Massachusetts; the president or his designee of the Building Trades Employers Association; the president or his designee of Associated Subcontractors of Massachusetts; the president or his designee of Construction Industries of Massachusetts; the president or his designee of the Massachusetts AFL-CIO; the president or his designee of Women in the Building Trades; the president or his designee of the New England Chapter of the National Association of Minority Contractors; and the executive director or his designee of the Boston Society of Architects. The commission shall file a report on the results of its study, together with its recommendations, if any, and any legislation necessary to carry such recommendations into effect, with the clerks of the house of representatives and the senate not later than September 30, 2003.

SECTION 139. Chapter 49 of the acts of 1933 is hereby repealed.

SECTION 140. Chapter 356 of the acts of 1992 is hereby amended by striking out, in line 3, the word "ten" and inserting in place thereof the following figure:- 20.

SECTION 141. Sections 51 and 111 shall not apply retroactively and shall not affect loans, loan orders, or bonds currently issued. Any re-issue, re-financing, or extension of currently issued loans, loan orders, or bonds, however, shall be subject to said sections 51 and 111.

SECTION 142. Section 100A shall take effect on July 1, 2007.

Approved July 31, 2003.